



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 10-51 and 03-123; FCC 15-143]

Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission proposes to amend its rules to modify its current four-year compensation rate plan for Video Relay Service (VRS), adopted in 2013, by adopting a limited-duration compensation rate freeze applicable to VRS providers with 500,000 or fewer monthly minutes, and solicits comment on whether to adopt a number of service quality measures that could enhance the functional equivalence of VRS.

DATES: Comments on the section entitled VRS Compensation Rates (paragraphs 1-9) are due on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments are due on or before **[INSERT DATE 36 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments on the section entitled VRS Improvements (paragraphs 10-25) are due on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments are due on or before **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by CG Docket Nos. 10-51 and 03-123, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS), through the Commission's website <http://fjallfoss.fcc.gov/ecfs2/>. Filers should follow the instructions provided on the Commission's website for submitting comments. For ECFS filers, in completing the transmittal

screen, filers should include their full name, U.S. Postal service mailing address, and CG Docket Nos. 10-51 and 03-123.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Eliot Greenwald, Consumer and Governmental Affairs Bureau, Disability Rights Office, at 202-418-2235 or e-mail Eliot.Greenwald@fcc.gov.

SUPPLEMENTARY INFORMATION: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
- Commercial Mail sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, S.W., Washington, DC 20554.

This is a summary of the Commission's document FCC 15-143, Structure and Practices of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Further Notice of Proposed Rulemaking, adopted on October 21, 2015, and released on November 3, 2015, in CG Docket Nos. 10-51 and 03-123. The full text of document FCC 15-143 will be available for public inspection and copying via ECFS, and during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, DC 20554. Document FCC 15-143 can also be downloaded in Word or Portable Document Format (PDF) at: <https://www.fcc.gov/encyclopedia/disability-rights-office-headlines>. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. 47 CFR 1.1200 et seq. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native

format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

INITIAL PAPERWORK REDUCTION ACT OF 1995 ANALYSIS

Document FCC 15-143 seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another notice in the Federal Register inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Pub. L. 104-13, 109 Stat. 163; 44 U.S.C. 3501-3520. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Pub. L. 107-198, 116 Stat. 729; 44 U.S.C. 3506(c)(4).

SYNOPSIS:

1. VRS Compensation Rates. In 2013, the Commission adopted a report and order amending its telecommunications relay service (TRS) rules to improve the structure, efficiency, and quality of the VRS program, reduce the risk of waste, fraud, and abuse, and ensure that the program makes full use of advances in commercially-available technology. Structure and Practices of the Video Relay Services Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 10-51, 03-123, Report and Order and Further Notice of Proposed Rulemaking, published at 78 FR 40407, July 5, 2013, and 78 FR 40582, July 5, 2013 (VRS Reform Order), aff'd in part and vacated in part sub nom. Sorenson Communications, Inc. v. FCC, 765 F.3d 37 (D.C. Cir. 2014) (Sorenson). The VRS Reform Order established the rates at which VRS providers are compensated from the Interstate Telecommunications Relay Service Fund (TRS Fund) for a

four-year period beginning July 1, 2013, and adopted structural reforms designed to establish a more level playing field for all VRS providers.

2. Under the current compensation methodology for VRS, providers submit the number of minutes of service they provide to the TRS Fund administrator on a monthly basis and are compensated for these minutes based on rates set annually by the Commission. The Commission currently uses a three-tier compensation rate structure that allows smaller providers to receive a higher average per-minute rate than larger providers. In the VRS Reform Order, the Commission found that, for many years, VRS compensation rates had exceeded providers' average allowable costs, causing overcompensation of VRS providers. To address this issue, the Commission proposed basing VRS compensation rates largely on competitively established pricing – i.e., prices that would be set through a competitive bidding process, and which would be instituted after the completion of structural reforms to the VRS program in the FNPRM accompanying the VRS Reform Order. Pending the resolution of these matters, however, in the VRS Reform Order, the Commission adopted a four-year schedule for gradually adjusting VRS compensation rates downward towards cost based levels.

3. On March 30, 2015, the six currently certified VRS providers jointly filed a petition (Joint VRS Providers Proposal) in which they urged the Commission to freeze the currently applicable VRS compensation rates of \$5.29, \$4.82, and \$4.25 per minute. They also indicated that they would support the following measures to improve the service quality of VRS: (1) a faster speed-of-answer standard, under which 80 percent of calls must be answered within 45 seconds, measured monthly; (2) a limited trial of “skills-based routing” in order to assess the cost and feasibility of offering that service feature; and (3) authorization for providers to use deaf sign language interpreters, to supplement hearing interpreters who are communications assistants (CAs), for the purpose of achieving functionally equivalent relay calls to or from certain categories of deaf users.

4. Generally, the Commission believes the four-year compensation rate plan continues to be justified. For the three smallest providers, however, the record does indicate that their average per-minute costs are higher than the applicable rates in effect as of July 1, 2015. According to recent filings by the smallest providers, while these companies generally have achieved significant reductions in their per-minute costs over the last two years, and while they have begun to increase market share to some extent, they have yet to approach the size or efficiency levels of their larger rivals.

5. The Commission continues to believe that, as stated in the VRS Reform Order, “it is worth tolerating some degree of additional inefficiency in the short term, in order to maximize the opportunity for successful participation of multiple efficient providers in the future, in the more competition-friendly environment that the Commission expect to result from our structural reforms.” The Commission proposes a limited modification of the VRS Reform Order, to allow small providers a reasonable measure of temporary relief from rate reductions that, according to the TRS Fund administrator, are potentially jeopardizing their continuation of service. Specifically, the Commission proposes to freeze for a maximum of 16 months the rate of compensation paid to “small” VRS providers, defined as providers whose monthly compensable minutes do not exceed 500,000 minutes. The Tier I rate of \$5.29 per minute that was in effect prior to June 30, 2015, would be frozen only for those providers whose monthly minutes fall entirely within Tier I. Larger providers would be subject to the Tier I rate established in the VRS Reform Order, as well as the established Tier II and III rates. The Commission invites comment on whether a different dividing line is appropriate for purposes of a rate freeze and also seeks comment generally on this proposal and its costs and benefits.

6. The Commission next seeks comment on how the proposed partial rate freeze should be implemented. The partial rate freeze proposed herein would extend, for qualifying providers and for a maximum of 16 months, beginning July 1, 2015, the Tier I rate of \$5.29 per minute that was in effect prior to June 30, 2015. The Commission seeks comment on this approach, including the precise duration of the

proposed rate freeze. The Commission seeks additional comment regarding these providers' actual expectations regarding their progress in closing the gap between rates and costs, what specific structural reform milestones are most critical to their ability to compete effectively, what criteria should be used in determining when such milestones were or will be achieved, and what specific dates for the end of a rate freeze result from that analysis. In addition, the Commission seeks comment on how rate adjustments should be resumed upon the termination of a rate freeze period, regardless of its duration. The Commission also seeks comment on whether it is the case that some small providers may not be likely in the foreseeable future to achieve "minimum efficient scale" but may nevertheless provide significant value to certain consumer groups. The Commission seeks comment on the extent to which some providers offer types of specialized features or services to specific segments of consumers, the nature of such specialized features or services, and the costs of providing them. The Commission also seeks comment on the extent to which larger companies are able to efficiently provide comparable features or services to the specific market segments served by smaller providers and whether they have an adequate incentive to do so notwithstanding the applicability of higher-tier compensation rates.

7. Generally, the Commission seeks comment on whether the Commission should apply different rates to well-defined categories of specialized service, and how such rate categories could appropriately be defined consistently with the objectives of section 225 of the Act and the need to prevent fraud, abuse, and waste of the TRS Fund. For example, what specific features or services are necessary to ensure the provision of functionally equivalent VRS to deaf-blind individuals, what would be the additional per-minute cost for a company to provide such a service "in the most efficient manner," and how could such a service be defined and an applicable VRS compensation rate be structured to best meet the statutory objectives? Are there any other specialized features or services that are or could be provided to specific segments of VRS consumers and that are necessary for such consumers to receive functionally equivalent VRS? If so, what is the per-minute cost for a company to provide such features or services "in the most

efficient manner,” and how could such services or features be defined and an applicable VRS compensation rate be structured to best meet the statutory objectives?

8. The Commission tentatively concludes that it would not advance the objectives of section 225 of the Act to freeze VRS compensation rates in all rate tiers, for all providers, at the Jan. 1 – June 30, 2015 levels, as proposed by the VRS providers, or to freeze the Tier I rate for all providers. However, the Commission invites comment on the merits, including the costs and benefits, of these alternatives and others that may be suggested by commenting parties. The Commission also seeks comment on the appropriate duration and other parameters of such alternatives.

9. The Commission invites any party advocating a more broadly applicable rate freeze to provide a detailed, fact-based showing as to why such a rate freeze is necessary to prevent service degradation rather than to provide debt service far in excess of the amounts for which recovery from the TRS Fund is allowed by the Commission’s rules and orders. The Commission also invites commenters to suggest how any proposed alternative rate freeze could be structured to ensure that TRS Fund monies are no longer used to subsidize excessive levels of debt.

10. VRS Improvements. The Commission is charged with ensuring that TRS is made available to the extent possible, and in the most efficient manner, and that it provides the ability for individuals with hearing or speech disabilities to engage in communication by telephone in a manner that is functionally equivalent to the ability of individuals who do not have such disabilities. (47 U.S.C. 225(a)(3), (b)(1).) The Commission seeks comment on whether to: (1) impose a faster speed-of-answer standard; (2) adopt a limited trial of “skills-based routing”; (3) authorize providers to use qualified deaf sign language interpreters, in addition to the hearing interpreters, as CAs; (4) authorize the use of at-home interpreters under certain conditions; and (5) permit the assignment of ten-digit numbers for telephones used by hearing individuals. In general, the Commission seeks comment on the costs and benefits of these proposals and alternatives discussed in document FCC 15-143 or submitted by the parties, and on whether

and how such proposals and alternatives comport with section 225 of the Act and any other relevant legal authorities.

11. In the VRS Reform Order, the Commission amended the VRS speed-of-answer standard, requiring that (1) effective January 1, 2014, VRS providers must answer 85 percent of all VRS calls within 60 seconds, measured on a daily basis, and (2) effective July 1, 2014, VRS providers must answer 85 percent of all VRS calls within 30 seconds, measured on a daily basis. The U.S. Court of Appeals for the District of Columbia Circuit vacated the amended requirements, ruling that the Commission had failed to consider the cost impact of the strengthened requirements. In the Joint VRS Providers Proposal, the providers endorse strengthening the speed-of-answer rule to require that 80 percent of all VRS calls be answered within 45 seconds, measured on a monthly basis. On June 23, 2015, the Disability Advisory Committee (DAC) submitted to the Commission the same recommendation as was made in the Joint VRS Providers Proposal.

12. The Commission proposes to amend the speed-of-answer rule to require that 80 percent of all VRS calls be answered within 45 seconds, measured on a monthly basis, and invites parties to comment on the costs and benefits of this proposal. The Commission tentatively concludes that there are factors besides functional equivalence – including the availability of sign language interpreters, the need to ensure adequate working conditions for CAs who handle VRS calls, and the need to ensure a high quality of interpreting – that merit consideration in setting the speed-of-answer standard.

13. The Commission proposes to continue to measure compliance with the speed-of-answer requirement for VRS on a monthly rather than a daily basis. The Commission seeks comment on this proposal and on whether, as the VRS providers assert, a daily measurement requirement, under which a provider must meet the requirement every day or lose compensation for that day, can be counterproductive because providers are subject to random variation in demand that cannot reasonably be anticipated. To what extent will such standard enable the Commission to meet its obligation to ensure functionally

equivalent service? Will a daily measurement have value because it would encourage providers to maintain sufficient staffing to ensure a consistent level of service over time? Is it likely that competitive forces will prompt providers to exceed the level of service the Commission sets by this rulemaking?

14. The Commission seeks comment on its tentative conclusion that compliance with the proposed standard could be achieved without any provider incurring additional costs in excess of those incurred over the past year.

15. The Commission seeks comment on the providers' proposal that, in lieu of the "all-or-nothing" compensation withholding policy, under which a provider that misses the speed-of-answer requirement on a particular day or month loses all compensation from the TRS Fund for that period, the Commission adopt a "sliding scale" approach, whereby the consequence for missing the speed-of-answer requirement in a given period is limited to withholding that percentage of the provider's total VRS billing that corresponds to the percentage by which the provider fell short of the applicable standard during that period.

16. The Commission also seeks comment on (1) whether to adopt an incentive-based system in which providers who meet stricter speed of answer thresholds receive additional compensation, (2) whether the Commission should publish summaries of each provider's speed-of-answer performance data, so that consumers can compare the performance of various providers, and the amount of detail that would be useful for consumers to know, and (3) whether to adopt a self-executing exemption from the speed-of-answer standard for calls occurring as a result of specific extraordinary events beyond a provider's control and a streamlined waiver procedure to address other events that may justify a waiver of the speed-of-answer standard.

17. Finally, the Commission seeks comment on whether the existing speed-of-answer rule for VRS, which states that the speed of answer for VRS is measured beginning from the time a VRS call reaches facilities operated by the VRS CA service provider, adequately defines when the speed-of-answer

“clock” starts. The Commission proposes to amend the speed-of-answer rule for VRS so that it expressly incorporates the same language applicable to other TRS calls, i.e., that the call must be “answered . . . by any method which results in the caller’s call immediately being placed, not put in a queue or on hold.”

18. In the VRS Reform Order, the Commission considered comments advocating the authorization of “skills-based routing,” a practice whereby VRS callers could request that calls be routed to VRS CAs with particular skill sets – such as particular spoken-language abilities, interpreting, transliteration, and signing styles and skills, or knowledge of specific subject matters (e.g., medicine, law, or technology). As suggested in the Joint VRS Providers Proposal, the Commission now seeks comment on whether to authorize “skills-based routing” on a trial basis.

19. The Commission seeks additional comment on the merits of skills-based routing generally. To what extent is skills-based routing necessary to achieve a telephone service that is functionally equivalent to the service provided to voice telephone users? Is skills-based routing consistent with the fundamental nature of TRS, which is currently subject to requirements that TRS calls must be answered in the order received, that providers must not unreasonably discriminate in the handling of calls, and that CAs must not refuse calls? If skills-based routing is authorized on a permanent basis, how should the types of calls appropriate for skills-based routing be defined? Would it be appropriate to provide compensation for the cost of such interpreters from the TRS Fund as a cost of providing service that meets minimum TRS standards? Generally, what additional costs would be incurred by providers for the provision of skills-based routing? What indirect impact might its provision have on the TRS Fund? For example, we seek comment on whether providers expect that they would need to pay higher wages to interpreters employed in the provision of skills-based routing. Should such additional labor costs be recoverable in VRS compensation rates, and if so, in what manner? To what extent could the provision of skills-based routing using higher-paid interpreters cause a migration of the most qualified interpreters to those positions, lowering the average quality of interpretation available on non-specialized calls?

20. If the Commission were to authorize a trial of skills-based routing, how should it be structured? Should skills-based routed calls during a trial period be exempt from all speed-of-answer compliance but subject to collection and reporting of speed-of-answer data, as the providers suggest? What types of skills-based routing (e.g., medical, legal, other call categories) should be included in the trial? Should the Commission limit the percentage of calls that can be subject to skills-based routing? Should the Commission waive the “sequential call rule” for successive calls not requiring specialized interpretation, so that such calls can be routed to a generalist interpreter? Should the Commission impose a requirement that a caller requesting a specialist interpreter be given an estimate of the expected wait time and the option of waiting for a skills-based CA or proceeding with a regular interpreter?

21. If the Commission were to authorize a trial of skills-based routing, how long should that trial last? What types of data should be collected during the trial to assess the costs and benefits of skills-based routing? What standards should be applied in assessing whether the interpreters to whom calls are routed actually have the relevant specialized skills and whether specialized interpreting is actually provided on such calls? The Commission also seeks comment on its assumption that any provider’s participation in a trial of skills-based routing should be voluntary and thus that any costs incurred by providers to participate in such a trial would not be billable to the TRS Fund as exogenous costs or otherwise.

22. The Commission seeks comment on whether to amend its rules to permit compensation for the use of deaf interpreters where needed to achieve functionally equivalent service on VRS calls for consumers of VRS where the provision of a hearing video interpreter in a VRS call is not sufficient for effective communications. The Commission seeks comment on the types and estimated percentage of VRS users who would benefit from the availability of deaf interpreters and on the costs of providing deaf interpreters. How many additional interpreter-hours would be needed and at what hourly rate? In the event that the Commission decides to adopt a rule that supports the provision of deaf interpreters, how should the Commission define the necessary qualifications for a deaf interpreter? What recordkeeping and

reporting requirements are appropriate? Should the Commission treat deaf interpreters as a form of skills-based routing, exempting calls requiring a deaf interpreter from the speed-of-answer calculations? The Commission also seeks comment on whether, before authorizing the use of deaf interpreters on a permanent basis, the Commission should first conduct a trial of this practice, similar to the trial of skills-based routing discussed previously.

23. To prevent fraud and abuse, the Commission previously adopted a rule prohibiting VRS interpreters from working from their homes. (47 CFR 64.604 (b)(4)(iii).) In the VRS Reform Order, the Commission sought comment on whether to permit VRS CAs to work from home during the overnight hours when the safety and security of CAs may be endangered from travelling to or from VRS call centers. The Commission now seeks comment on whether circumstances have changed sufficiently so that CAs should be permitted to work from home at any time, subject to appropriate safeguards. The Commission asks what specific safeguards are needed to ensure protection against fraud and abuse of the VRS program were such rule change to take place. The Commission further notes that home interpreting arrangements might fall short of achieving full compliance with the Commission's mandatory minimum standards for TRS, including standards protecting call privacy, requiring the handling of 911 calls, mandating service redundancy, and assuring certain call quality. The Commission asks commenters to address the costs and benefits of permitting CAs to work from home and how such costs and benefits would differ, based on whether CAs are permitted to work from home at any time or only during overnight hours.

24. The Commission proposes to allow VRS providers to assign ten-digit Internet-based TRS numbers to hearing individuals so that they are able to place and receive direct (point-to-point) video calls to and from other VRS users. In the VRS Reform Order, the Commission previously sought comment on whether to allow such use. The Commission seeks comment on whether the Commission has statutory authority to allow such use of VRS facilities. The Commission seeks comment on whether permitting eligible VRS users to communicate directly with hearing people who can use American Sign Language

(ASL) will increase the functional equivalence of TRS by facilitating telephone communication between members of the deaf and hearing communities, conserve the resources of the TRS Fund, and allow more natural, efficient, and effective communication between the parties, and whether to require or merely authorize providers to register hearing individuals for this service.

25. The Commission seeks comment on its tentative conclusion that assigning hearing individuals their own numbers would cause no significant increase in the costs incurred by VRS providers and on who should bear such costs as will be incurred to provide this service. The Commission also proposes to adopt measures to prevent fraud, abuse, and waste in connection with ten-digit numbers assigned to hearing individuals, including requiring the default provider to transmit a hearing person's registration information, as well as the assigned ten-digit number, to the TRS User Registration Database (TRS-URD) and to notify both the TRS Numbering Directory and the TRS-URD that the registrant is a hearing person who is not entitled to place or receive VRS calls. The Commission seeks comment on what additional registration information, if any, beyond that collected for eligible VRS users, the Commission should require the default provider to collect and provide to the TRS-URD for hearing users.

INITIAL REGULATORY FLEXIBILITY ACT ANALYSIS

26. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in document FCC 15-143. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments as indicated in the Dates section. The Commission will send a copy of document FCC 15-143, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). (See 5 U.S.C. 603(a).)

A. Need For, and Objectives of, the Proposed Rules

27. The Commission proposes to modify in part the four-year compensation rate plan for video relay service (VRS) adopted in 2013 and also seeks comment on whether to adopt a number of measures that could enhance the functional equivalence of VRS.

28. Although the Commission believes that the four-year schedule of VRS compensation rate reductions continues to be justified in order to gradually move compensation rates close to a level close to average allowable provider costs, the Commission proposes to modify the schedule as applied to the smallest VRS providers, i.e., those providing 500,000 or fewer compensable minutes of use of VRS per month. Spreading rate reductions over a four-year period was largely intended to provide a reasonable opportunity for the smallest providers to reach minimum efficient scale while benefitting from the VRS Reform Order initiatives which were intended to address many of the issues that have made it difficult for small providers to operate efficiently.

29. The smallest providers have achieved significant reductions in their per-minute costs but have yet to approach the size or efficiency levels of their larger rivals. Further, some relevant VRS Reform Order initiatives, such as the open source video access platform, will soon be implemented, and the Commission believes all existing providers should have a fair opportunity to participate in this important reform. Finally, some small providers offer service features that may be helpful in advancing the goal of functionally equivalent service for certain subsets of VRS consumers, such as Spanish language speakers, deaf-blind consumers, and deaf-owned businesses.

30. Therefore, the Commission proposes to temporarily “freeze” the rate applicable to providers with monthly call volumes that do not exceed 500,000 compensable minutes per month, effective July 1, 2015, at the level of the Tier I rate (\$5.29 per minute) in effect on June 30, 2015. The Commission proposes that this rate remain in effect for a maximum of 16 months and seeks comment on the specific duration of the rate freeze and the rate that should apply upon its expiration. The Commission also seeks

comment on whether there are unique types of VRS that are inherently more expensive to provide and to which an alternative rate level should apply. Finally, the Commission invites comment on alternatives to its rate freeze proposal, such as freezing rates in all tiers, for all providers, or freezing rates for all providers for their first 500,000 minutes.

31. In addition to the proposed VRS compensation rate freeze, the FNPRM seeks comment on a number of rule changes that may improve the functional equivalence of VRS. Specifically, the FNPRM seeks comment on whether to: (1) impose a faster speed-of-answer standard, e.g., requiring VRS providers to answer 80 percent of all VRS calls within 45 seconds, as measured on a monthly basis, in lieu of the current requirement to answer 80 percent of all VRS calls within 120 seconds, as measured on a monthly basis; (2) adopt a limited trial of “skills-based routing,” allowing VRS callers to request that calls be routed to VRS communications assistants (CAs) with particular skill sets, such as particular spoken-language abilities, interpreting, transliteration, and signing styles and skills, or knowledge of specific subject matters (e.g., medicine, law, or technology); (3) authorize providers to use qualified deaf sign language interpreters, in addition to the hearing interpreters, as CAs for those consumers who need such additional assistance for effective communication; (4) authorize the use of at-home interpreters under certain conditions; and (5) permit the assignment of ten-digit numbers for video phones used by hearing individuals who know American Sign Language (ASL) to communicate directly with deaf consumers. The Commission seeks comment on the costs and benefits of each of these measures.

B. Legal Basis

32. The authority for this proposed rulemaking is contained in sections 4(i), 201(b), 225, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201(b), 225, 303(r).

C. Description and Estimate of the Number of Small Entities Impacted

33. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. (5 U.S.C. 603(b)(3).) The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” (5 U.S.C. 601(6).) In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. (5 U.S.C. 601(3).) Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”) A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. (15 U.S.C. 632.)

34. VRS Providers. These services can be included within the broad economic category of All Other Telecommunications. Six providers currently receive compensation from the TRS Fund for providing VRS: ASL Services Holdings, LLC (ASL Services); CSDVRS, LLC (CSDVRS); Convo Communications, LLC (Convo); Hancock, Jahn, Lee and Puckett, LLC d/b/a “Communications Axess Ability Group” (CAAG); Purple Communications, Inc. (Purple); and Sorenson Communications, Inc. (Sorenson) (VRS and IP CTS).

35. All Other Telecommunications. “All Other Telecommunications” is defined as follows: “This U.S. industry comprises establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications

to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.” (U.S. Census Bureau, North American Industry Classification System, Definition of NAICS Code 517919. See <<http://www.census.gov/cgi-bin/sssd/naics/naicsrch>>.)

36. The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with gross annual receipts of \$32.5 million or less. (See 13 CFR 121.201, NAICS Code 517919.) All the authorized VRS providers can be included within the broad economic census category of All Other Telecommunications. Under this category and the associated small business size standard, approximately half of the VRS providers can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

37. No additional compliance requirements would be imposed by the VRS compensation rate freeze proposed in document FCC 15-143. If the Commission were to adopt some or all of the service improvement measures on which comments are sought in document FCC 15-143, the adoption of such measures could result in additional reporting, recordkeeping, and other compliance requirements. Specifically, in seeking comments on whether to authorize a limited trial of “skills-based routing,” provide for the use of qualified deaf sign language interpreters to provide additional communications assistance for VRS users who need such additional assistance for effective communication, or permit the assignment of ten-digit numbers for video phones used by hearing individuals to communicate directly with deaf consumers, the Commission has also sought comment on whether additional reporting and recordkeeping requirements would be needed to document the use of such features in order to prevent fraud, abuse, and waste. There may also be associated recordkeeping, reporting, or compliance requirements if the Commission were to allow the use of at-home interpreters, but such compliance requirements would apply only if a provider chooses to permit its interpreters to work from home. If the Commission were to

increase the required speed of answer for VRS calls, no additional reporting and recordkeeping requirements are contemplated, and the cost of compliance would increase only to the extent that the new standard exceeded providers' current performance.

E. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

38. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. (5 U.S.C. 603(b).)

39. The temporary compensation rate freeze proposed in document FCC 15-143 would not impose additional compliance burdens and would temporarily ease the impact of existing VRS regulations on small entities by temporarily increasing the VRS compensation rate for small entities above the rate currently in effect. Similarly, if the Commission were to amend its rules to authorize at-home interpreting for VRS, the impact of existing VRS regulations on small entities could be reduced because providers would have additional flexibility to structure their VRS operations so as to minimize cost and maximize efficiency.

40. Regarding the possible additional record-keeping and reporting requirements that could be adopted if the Commission were to authorize skills-based routing, deaf interpreters, or assignment of ten-digit numbers to hearing individuals using video phones, the Commission is seeking comment on the alternative of allowing providers to choose whether to provide such features and incur the associated compliance requirements.

**F. Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's
Proposals**

41. None.

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

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